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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
On September 8, 2003 \_\_\_\_\_

Date of Meeting: March 3, 2003

The Mayor and Council of the city of Tucson met in regular session, in the Mayor and Council Chambers, in City Hall, 255 West Alameda, Tucson, Arizona, at 2:09 p.m., on Monday, March 3, 2003, all members having been notified of the time and place thereof.

### 1. ROLL CALL

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

José J. Ibarra  
Carol W. West  
Kathleen Dunbar  
Shirley C. Scott  
Steve Leal  
Fred Ronstadt  
Robert E. Walkup  
Kathleen S. Detrick

Council Member Ward 1  
Council Member Ward 2  
Council Member Ward 3  
Vice Mayor Ward 4  
Council Member Ward 5  
Council Member Ward 6  
Mayor  
City Clerk

Absent/Excused:

None

Staff Members Present:

James Keene  
Mike Letcher  
Benny Young  
Ernie Duarte

City Manager  
Deputy City Manager  
Assistant City Manager  
Development Services Acting Director

Michael House

City Attorney

Daniel Jacobs  
Rebecca Partin  
Sandra Slate

City Clerk's Office  
Recording Secretary  
Recording Secretary

## **2. INVOCATION AND PLEDGE OF ALLEGIANCE**

The invocation was given by the city clerk, after which the pledge of allegiance was presented by the entire assembly.

### **Presentations**

#### **A. Women in Construction Week**

Mayor Walkup proclaimed the week of March 2 through 8, 2003 to be "Women in Construction Week" and March 3, 2003, to be "Take a Woman to a Construction Day."

#### **B. Certificate of Appreciation**

Mayor Walkup presented a certificate of appreciation to Tucson Police Department Sergeant Wes Dison for implementation of a program in the Tucson Unified School District that provides information showing the locations of handicapped gas and electric turnoffs, chemical labs, exits, and other information in the event of a local threat, national emergency or natural disaster.

## **3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS**

Mayor Walkup announced that city manager's communication number 125, dated March 3, 2003, would be received into and made a part of the record. He also announced that this was the time for members of the council to report on current events and asked if there were any reports.

#### **A. "Call City Hall" Program**

Council Member Ronstadt announced that on March 5, 2003, at 6:30 p.m., he and the city manager would be discussing the budget on the first of a series of programs titled, "Call City Hall," which would be broadcast on Cox Communications and Comcast Cable.

#### **B. Community Core Council**

Council Member Ronstadt said the Community Core Council, which was established by an initiative from the state department and President Bush, is a grassroots program involving 20 hours of training to prepare citizens to respond to disasters when public safety resources are focused on one area of the city. Citizens receive training on triage, look at the structural integrity of buildings and take care of basic needs while waiting for first responders. Tucson's Community Core Council recently held their first meeting. Lauren Stokel, president of the Rosemont West Neighborhood Association, is on the board and is very capable. Rosemont West is the first neighborhood to go through the CERT training, graduating 20 people last Saturday. He believed Corbett would be the next neighborhood to go through the training and anticipated that within the next few months other neighborhoods would follow. He asked the mayor to present the certificate from the Federal Emergency Management Agency, the Arizona Department of Emergency Management, and Pima County to Rosemont West.

**C. Dedication of Jesse Owens Park**

Council Member West said last Saturday her ward hosted a dedication at Jesse Owens Park of some new playground equipment, which a lot of children attended. Most important, they planted a tree in memory of Dan Felix. She thought he would be happy to see all of those children having fun because of something that he played such a big part in. She thanked Council Member Ronstadt and the city manager for joining her at that event.

**4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS**

Mayor Walkup announced that city manager's communication number 126, dated March 3, 2003, would be received into and made a part of the record, and asked for the city manager's report.

**A. Cultural and Travel Festival**

James Keene, city manager, on behalf of the Sister Cities Association of Tucson and Council Member Ronstadt, invited everyone to attend a cultural and travel festival featuring Pecs, Tucson's Hungarian Sister City, which would be held March 13 through 15. Speakers would include Vice Mayor Scott, Council Member Ronstadt, and some high level public officials from Hungary.

**B. Grande Avenue Festival**

Mayor Walkup announced that the Grande Avenue Festival was held over the weekend in Barrio Hollywood. He wanted everyone to know, especially the people who were involved in its planning, that it was a wonderful event and everyone concluded that they would do it again next year and everyone is invited. He said a lot of people worked very hard to make it a success and they did a superb job.

**5. CALL TO THE AUDIENCE, for persons desiring to speak**

Mayor Walkup announced that this was the time any member of the public was allowed to address the mayor and council on any issue that was not on the agenda. He advised that there would also be a call to the audience at the end of the meeting and asked that speakers limit their presentations to three minutes. He had received a number of written requests from people wishing to speak, a number of them on the budget item which was scheduled on the study session, and asked that they hold their comments to the call to the audience at the end of the meeting. He called on the first speaker.

**A. Development and the Environment**

Amanda Davidson, said she has learned to live in the desert. Houses are being built and she wants the desert to stay the way it used to be. She wants homes for people, but she also wants the trees and bushes left for the animals. She asked the council to protect the desert.

Mayor Walkup congratulated Ms. Davidson and said the council appreciates hearing from young people. They are very insightful.

## **B. Butterfield Ranch Common Area Retention/Detention Basin**

Ryan Adams, said he did not know if the council was aware of the situation with the US Homes Subdivision Butterfield Ranch common area, which in fact is a retention/detention basin that does not drain in the required amount of time. It remains flooded, which is a potential for someone drowning, not to mention the aesthetics. Furthermore, US Homes and the city's development services and engineering staff are requiring that the homeowners take possession of the basin, along with the costly maintenance that is involved. Unfortunately, unlike Westview Estates, the homeowners did not have an opportunity to fully protest the basin before the subdivision was developed. He asked that the mayor and council pursue the prohibition of privately owned detention/retention basins within the city limits and put the subject on a council agenda as soon as possible. He also asked the council to form a subcommittee and set a date for the discussion.

## **C. Direct Caregivers Association**

Judith Clinco, said she is the owner of a home care business that provides care and services to elders of the community, and president of Direct Caregiver Association. For the last 22 years, she and other providers of long-term care in nursing homes and assisted living facilities have struggled to maintain a stable and reliable workforce and it has been an impossible task. In September of 2000, a group of long-term care providers recognized that they needed to work together, collaboratively, to come up with a solution to the chronic turnover in the state of Arizona, which is 95% annually. Currently there is a vacancy rate of 35%. Through their efforts, they not only brought the collaboration of the industry together they also brought consumers, Direct Caregivers, and supporting organizations to the table. She said the city of Tucson supported her group with \$30 thousand which allowed them to leverage another \$130 thousand through grants and foundations, tuition reimbursements, and provider membership dues. She had provided the council with documents of their accomplishments. She realized that two years ago when they asked for funding, Direct Caregivers were a new organization and the council had the courage to take the risk and fund them.

She wanted to let the council know that last year her organization trained 52 caregivers for 12 weeks and 85% are working and taking care of the city's most vulnerable population. The demonstration project is working because of the council's support. She thanked them on behalf of her board and management staff, the long-term care providers, the caregivers who have been trained, and those who will be trained in the future. Most of all, she thanked them on behalf of the hundreds of elderly whose lives are being touched and impacted by the quality care that is being provided to them. She recognized and appreciated the terrific job the council has done in terms of leading the city, and the support they have given to the Direct Caregiver Association in sharing their vision for providing quality care to the elders of the community.

## **D. Westview Estates Development**

Tracy Williams, thanked the mayor and council, especially Mayor Walkup and Council Member Ibarra, for supporting the Westview Neighborhood and denying final approval of the Westview Estates project at its last meeting. She presented a letter with supporting documents to the mayor and council and staff and said ideally, that

information packet would be helpful as the mayor and council, city staff, the neighborhood, and the applicant move toward an agreeable solution. Westview neighbors want to make sure that relevant staff and neighborhood representatives agree. All day Saturday a survey crew worked at the site, putting in flags and stakes. The neighbors are unsure of what that action means. She asked if the developer was moving forward with his plans in spite of the clear message that the council gave when it sent the proposal back to the development services staff for review. She invited the mayor and council to tour the property for a firsthand look at the situation. Now more than ever because of the newly placed survey stakes, the problems are clearly visible. She asked on behalf of the neighbors that the city hire an outside engineering firm, one with no conflicts of interest, to evaluate the project. Since there were no guidelines to help them navigate through the uncharted territory, the Westview Neighborhood was waiting for direction from Mayor Walkup and Council Member Ibarra on how to proceed.

On Friday she went to development services to locate the Westview Estates file. The neighbors have sent numerous letters with technical and legal information to staff at development services. She was told that Ernie Duarte, Jim Volgesberg, Matt Flick, or Craig Gross may have private files that contain those letters. She asked where the central public file at development services is located. When she presents a document to the clerk for distribution to all relevant staff, she thought a public file would be available at both locations, the clerk's office at city hall and at the public works building. These documents were intended to be accessible to all parties involved with the process of approving the final plat and to the public. It appears that the city needs to take time to review the codes and standards related to detention/retention basins. She asked the mayor and council to consider delaying approval of all final plats that include a detention/retention basin until the city staff has conducted a complete inventory of all the basins in the city along with an evaluation of their performance. In ward four it appears the Butterfield Ranch residents are experiencing severe problems with a floodplain control plan that was approved by the city. The Westview residents feel relieved, for the moment, that the mayor and council voted to stop a similar kind of mistake from occurring in their precious neighborhood.

Mayor Walkup asked if anyone else wished to address the council. There was no one.

## **6. CONSENT AGENDA – ITEMS A THROUGH L**

Mayor Walkup announced that the reports and recommendations from the city manager on the consent agenda items would be received into and made a part of the record. He asked the city clerk to read the consent agenda items.

### **A. ASSURANCE AGREEMENT: (S02-004) RANCHO REPOSO, LOTS 1 TO 18 AND COMMON AREAS "A" AND "B"**

- (1) Report from City Manager MARCH3-03-138 Will
- (2) Resolution No. 19523 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval of a final plat for the Rancho Reposo Subdivision, Lots 1 to 18 and Common Areas "A" and "B"; and declaring an emergency.

- B. FINAL PLAT: (S02-004) RANCHO REPOSO, LOTS 1 TO 18 AND COMMON AREAS "A" AND "B"
- (1) Report from City Manager MARCH3-03-137 WILL
  - (2) The City Manager recommends that after the approval of the Assurance Agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- C. GRANT AGREEMENT: WITH THE STATE OF ARIZONA COMMERCE AND ECONOMIC DEVELOPMENT COMMISSION
- (1) Report from City Manager MARCH3-03-133 CITY-WIDE
  - (2) Resolution No. 19522 relating to economic development; approving and authorizing the acceptance of the grant agreement with the State of Arizona Commerce and Economic Development Commission; and declaring an emergency.
- D. TELECOMMUNICATIONS: AUTHORIZING THE EXTENSION OF A LIMITED, NON-EXCLUSIVE TEMPORARY COMPETITIVE TELECOMMUNICATIONS LICENSE TO COX ARIZONA TELECOM
- (1) Report from City Manager MARCH3-03-129 CITY-WIDE
  - (2) Ordinance No. 9819 relating to competitive telecommunications; authorizing the extension of a limited, non-renewable, non-exclusive temporary competitive telecommunications license pursuant to Tucson Code Chapter 7B to Cox Arizona Telecom, LLC, a Delaware Limited Liability Company; and declaring an emergency.
- E. REAL PROPERTY: ABANDONMENT OF EASEMENT IN EXCHANGE FOR THE GRANTING OF A DECLARATION OF EASEMENT FOR THE RIO NUEVO RECLAIMED WATER SYSTEM
- (1) Report from City Manager MARCH3-03-130 WI
  - (2) Ordinance No. 9820 relating to real property; abandoning an existing water easement for a reclaimed water line in the vicinity of Congress Street and Bonita Avenue; dedicating a new water line easement in the vicinity of Congress Street and Bonita Avenue for a reclaimed water line; and declaring an emergency.
- F. AGREEMENT: WITH ARIZONA WATER BANKING AUTHORITY FOR STORAGE OF CENTRAL ARIZONA PROJECT WATER
- (1) Report from City Manager MARCH3-03-132 OUTSIDE THE CITY

- (2) Resolution No. 19524 relating to water; approving and authorizing an agreement with Arizona Water Banking Authority to store Central Arizona Project water at CAVSARP; and declaring an emergency.

\* G. FINANCE: SALE OF JUNIOR LIEN HIGHWAY USER REVENUE REFUNDING BONDS, SERIES 2003A (CONTINUED FROM MEETING OF FEBRUARY 24, 2003)

- (1) Report from City Manager MARCH3-03-139 CITY-WIDE

\*\* H. FINANCE: CONTINGENCY FUND TRANSFER FOR PONIES DEL PUEBLO ART PROJECT

- (1) Report from City Manager MARCH3-03-140 CITY-WIDE

- (2) Resolution No. 19525 relating to finance; approving and authorizing the transfer of Eight Hundred Fifty-Eight Dollars (\$858) from the Contingency Fund to Organization 001-183-1838-268, for Ponies Del Pueblo; and declaring an emergency.

\*\*\* I. SOLID WASTE: PROPOSED FISCAL YEAR 2003 DISPOSAL RATES AT LOS REALES LANDFILL

- (1) Report from City Manager MARCH3-03-142 CITY-WIDE

J. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE SANTA RITA PARK NEIGHBORHOOD REINVESTMENT PROJECT

- (1) Report from City Manager MARCH3-03-143 WV

- (2) Resolution No. 19527 relating to intergovernmental agreements; authorizing and approving the execution of an intergovernmental agreement with Pima County for the Santa Rita Park Neighborhood Reinvestment Project; and declaring an emergency.

\*\*\*\* K. FINANCE: CONTINGENCY FUND TRASFER FOR SAM HUGHES NEIGHBORHOOD ASSOCIATION

- (1) Report from City Manager ARCH3-03-144 WVI

- (2) Resolution No. 19528 relating to finance; approving and authorizing the transfer of Two Thousand Five Hundred Dollars (\$2,500) from the Contingency Fund to Organization 001-183-1838-268, for Sam Hughes Neighborhood Association; and declaring an emergency.

\*Continued to March 17, 2003

\*\*See page 8

\*\*\*Continued

\*\*\*\*See page 9

\* L. FINANCE: CONTINGENCY FUND TRANSFER FOR EL PUEBLO NEIGHBORHOOD CENTER'S INTERNATIONAL WOMEN'S DAY CELEBRATION

- (1) Report from City Manager MARCH3-03-146 CITY-WIDE
- (2) Resolution No. 19529 relating to finance; approving and authorizing the transfer of One Thousand Two Hundred Seven Dollars (\$1,207) from the Contingency Fund to Organization 001-183-1838-268, for International Women's Day; and declaring an emergency

It was moved by Council Member Dunbar, seconded by Vice Mayor Scott, that consent agenda items A through L, with the exception of items G, H, I, K, and L, be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;  
Vice Mayor Scott and Mayor Walkup

Nay: None

Absent/Excused: None

Consent agenda items A through L, with the exception of items G, H, I, K, and L, were declared passed and adopted by a roll call vote of 7 to 0.

**6. CONSENT AGENDA – ITEM H**

H. FINANCE: CONTINGENCY FUND TRANSFER FOR PONIES DEL PUEBLO ART PROJECT

Resolution No. 19525

Relating to finance; approving and authorizing the transfer of Eight Hundred Fifty-Eight Dollars (\$858) the Contingency Fund to Organization 001-183-1838-268, for Ponies Del Pueblo; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

Vice Mayor Scott advised that she wanted to donate \$858 from her ward's contingency fund to this project.

Council Member Ronstadt said he wished to add \$858 from his ward.



Council Member Ibarra said he would donate \$858 from the ward one contingency fund.

Council Member West said she had already contributed \$858 and in light of what this project is, the fact that the money is being used for the libraries at a time of tight budgets, she wanted to double her contribution of \$858. She thought the project was an important one. Her contribution amounted to \$1,716.

Kathleen S. Detrick, city clerk, announced that the total contribution was \$4,290.

Mayor Walkup asked if there was further discussion. There was none.

It was moved by Council Member West, seconded by Vice Mayor Scott, that resolution 19525 be passed and adopted reflecting a total contribution of \$4,290.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;  
Vice Mayor Scott and Mayor Walkup

Nay: None

Absent/Excused: None

Resolution No. 19525 was declared passed and adopted by a roll call vote of 7 to 0.

## **6. CONSENT AGENDA – ITEM K**

### **K. FINANCE: CONTINGENCY FUND TRASFER FOR SAM HUGHES NEIGHBORHOOD ASSOCIATION**

Resolution No. 19528

Relating to finance; approving and authorizing the transfer of Two Thousand Five Hundred Dollars (\$2,500) from the Contingency Fund to Organization 001-183-1838-268, for Sam Hughes Neighborhood Association; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

Council Member Ronstadt said he asked that this item be considered separately. An article appeared in the Sunday Edition of the *Star* about the project at Sixth and Campbell and last week when the council talked about the project on the west side of Sixth and Campbell he mentioned that this project was coming for the eastside. Just to give a sense of what was going on, he said the developer purchased the subject property from the state for a significant amount of money. The property was formerly the Sam Heck facility and the project that the developer proposed and presented to the neighborhood was 46 units of

student housing, which the neighborhood was very upset about. The neighborhood association's subcommittee, the developer and his staff, and Council Member Ronstadt had a meeting where it was proposed that the neighborhood pay an architect \$5,000 to work with the developer and come up with an alternate plan. That was a significant move since at that point the developer had put approximately a quarter of a million dollars into the design of the original project. The developer was willing to cooperate and allow the neighborhood to have that input. The neighborhood representatives met daily with the architect for about a week and came up with the plan that was published in yesterday's paper.

Last week it was overwhelmingly supported by the neighborhood and he wanted to point that out because he thinks it is really significant in terms of the direction the community has taken in the last few years. It happens a lot in ward two and some of the other wards where the neighborhood is actually sitting down with developers and coming up with quality projects that are much better than the developer probably imagined in the first place. The investment from the neighborhood was \$5,000 and he added \$2,500, essentially splitting that \$5,000. He was excited about the project, the neighborhood is excited about it and he thought it would be a model for the type of development the city would like to see in its core. It is a high density, mixed use, downtown style residential development that responds to parking concerns. It is a very exciting project, the type of project the council has been asking for and the fact that the neighborhood worked so closely with the developer and his office makes it that much more special.

It was moved by Council Member Ronstadt, seconded by Council Member West, that resolution no. 19528 be passed and adopted.

Mayor Walkup asked if there was further discussion.

Council Member Ibarra asked if the sculpture that was in front of the building would be preserved.

Council Member Ronstadt said the developer has warehoused all of the historical elements of the property, including the sculpture and the desire of the developer and the neighborhood is to integrate those things into the new development in some form. They are actually preserving the lava rock wall, some of the saguaro rib roof material, some of the doors, the designs in the fireplace and materials that were used to build it. A huge inventory of historical elements of the building have been preserved and warehoused so they can be integrated into the future design.

Mayor Walkup said the project had come a long way in a very short time. It was a wonderful move forward.

Council Member Ronstadt said in order to make this deal work the city manager has committed that the development will be fast tracked through city staff. It will require a plan amendment and a rezoning, as it is currently envisioned. As with the Prime School on Broadway, which turned out to be a seven or nine-month process, it was hoped that this project would break ground by the end of the year.

Mayor Walkup said everyone involved had done a good job and asked for the roll call on the motion to pass and adopt resolution no. 19528.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;  
Vice Mayor Scott and Mayor Walkup

Nay: None

Absent/Excused: None

Resolution no. 19528 was declared passed and adopted by a roll call vote of 7 to 0.

## **6. CONSENT AGENDA – ITEM L**

### **L. FINANCE: CONTINGENCY FUND TRANSFER FOR EL PUEBLO NEIGHBORHOOD CENTER'S INTERNATIONAL WOMEN'S DAY CELEBRATION**

Resolution No. 19529

Relating to finance; approving and authorizing the transfer of One Thousand Two Hundred Seven Dollars (\$1,207) from the Contingency Fund to Organization 001-183-1838-268, for International Women's Day; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

Council Member West asked that this item be considered separately. She had told Council Member Leal that she would support this request and she was willing to cover one third of the subject costs.

Council Member Ibarra said he would cover a third also.

Council Member Leal thanked them for their support. He said the amount could not be divided equally, so he would pay the extra dollar along with his third.

It was moved by Council Member Leal, seconded by Vice Mayor Scott, that resolution no. 19529, reflecting a total of \$1,207, be passed and adopted.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;  
Vice Mayor Scott and Mayor Walkup

Nay: None

Absent/Excused: None

Resolution no. 19529 was declared passed and adopted by a roll call vote of 7 to 0.

## 7. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced that city manager's communication number 128, dated March 3, 2003, would be received into and made a part of the record. He asked the city clerk to read the liquor license agenda.

### New License(s)

- (1) LA COCINA RESTAURANT & CANTINA  
186 N. Meyer  
Applicant: Mary L. Focht  
City #004-03, Ward 1  
Series #12  
Action must be taken by: March 23, 2003

### Staff Recommendation

Police: In Compliance  
DSD: In Compliance  
Bus. License: In Compliance

- (2) FAMOUS SAM'S #10  
2320 N. Silverbell Road  
Applicant: David E. McGuire  
City #-006-03, Ward 1  
Series #3  
Action must be taken by: March 23, 2003

### Staff Recommendation

Police: In Compliance  
DSD: In Compliance  
Bus. License: In Compliance

### Person Transfer(s)

- (3) RODEWAY INN  
1365 W. Grant Road  
Applicant: H.J. Lewkowitz  
City #003-03, Ward 1  
Series #6  
Action must be taken by: March 21, 2003

### Staff Recommendation

Police: In Compliance  
DSD: In Compliance  
Bus. License: In Compliance

### Special Event(s)

- (1) TUCSON ARTS DISTRICT  
PARTNERSHIP  
140 N. Main Avenue  
Applicant: Vera L.Y. Uyehara  
City #T006-03, Ward 1  
Date of Event: April 11, 2003

### Staff Recommendation

Police: In Compliance  
DSD: In Compliance

- (2) TUCSON PARKS FOUNDATION  
600 S. Alvernon Way  
Randolph Golf Course  
Applicant: Melissa L. Almquist  
City #T015-03, Ward 6  
Date of Event: March 9, 2003  
March 10, 2003, March 11, 2003  
March 13, 2003, March 14, 2003  
March 15, 2003, March 16, 2003

### Staff Recommendation

Police: In Compliance  
DSD: In Compliance  
Parks & Rec. In Compliance

## Extension of Premises

- |  |  |
|--|--|
| (1) TUCSON CONVENTION CENTER<br>260 S. Church Avenue<br>Applicant: Thomas F. Obermaier<br>City #EP10-03, Ward 1<br>Date of Event: March 16, 2003 | <u>Staff Recommendation</u><br><br>Police: In Compliance<br>DSD: In Compliance |
| (2) CONGRESS TAP ROOM, INC.<br>311 E. Congress<br>Applicant: Richard S. Oseran<br>City EP11-03, Ward 6<br>Date of Event: March 15, 2003          | <u>Staff Recommendation</u><br><br>Police: In Compliance<br>DSD: In Compliance |

Mayor Walkup asked the council's pleasure.

It was moved by Vice Mayor Scott, seconded by Council Member Ibarra, and carried by a voice vote of 7 to 0, to forward liquor license city application numbers 004-03; 006-03; 003-03; T006-03; T015-03; EP10-03, and EP11-03, to the state department of liquor licenses and control with a recommendation for approval.

## **8. ZONING: (C-02-23) LEVIS/SUTTON – CAMP LOWELL DRIVE, SR/RX-1 TO C-1**

Kathleen S. Detrick, city clerk, read the following clerical corrections into the record: Condition 1, the correct date of the preliminary development plan is February 5, 2003, not December 12, 2002 as listed. Also, Condition 21, the fifth sentence should be changed from, "Vegetation that . . . " to read, "Vegetation will be preserved, relocated on-site, or replaced with native or adaptive, drought tolerant plant material of comparable size."

Mayor Walkup announced that city manager's communication number 141, dated March 3, 2003, would be received into and made a part of the record. He also announced - that this was a request to rezone property located on the southwest corner of Camp Lowell Drive and Swan Road. The preliminary development plan is for retail space for five buildings. The zoning examiner and city manager recommend approval of C-1 zoning, subject to certain conditions. He asked if the applicant or a representative was present and if so, were they aware of and amenable to the proposed standard requirements.

Wayne Rutschman, 12505 E. Jeffers Place, said they were.

Mayor Walkup asked the council's pleasure.

Council Member West said she has had a number of meetings regarding the subject site because it does contain some important vegetation. They have agreed to a new condition, which states on page five, "The city engineer, city hydrologist, and city development services staff shall refer to mayor and council and zoning examiner minutes to clarify the intent to preserve the trees as stated in conditions 21 and 33. The city staff shall exhibit the utmost flexibility in trying to accomplish this goal." Council Member West said there would be continued meetings with representatives from Trees for Tucson as one of the conditions of the case. She wanted to meet with staff regarding the concern of area residents about the intersection of Camp Lowell and Swan, although that had nothing to do

with the subject rezoning. She would be asking that her office arrange a meeting with the transportation department to work those items out. She did not see that as an issue with this case, but she thought it was something that is of concern to some property owners to the east.

It was moved by Council Member West, seconded by Council Member Dunbar, and carried by a voice vote of 7 to 0, that in zoning case C9-02-23, staff be directed to prepare an ordinance rezoning the subject property from SR/RX-1 to C-1, as recommended by the zoning examiner with the addition of condition number 35, as read by Council Member West and the corrections read by the city clerk.

Ms. Detrick said the zoning examiner's recommendation did not include the manager's recommended change to conditions numbers 13, and 21, nor did it include the new conditions 26 and 35. She said a motion to reconsider would be necessary, then a motion to approve.

It was moved by Council Member West, seconded by Council Member Dunbar, and carried by a voice vote of 7 to 0, to reconsider zoning case C9-02-23.

It was moved by Council Member West, seconded by Council Member Dunbar, that in zoning case C9-02-23, staff be directed to prepare an ordinance rezoning the subject property from SR/RX-1 to C-1, as recommended by zoning examiner with the additional conditions 26 and 35, and the clerical corrections read by the city clerk.

Ms. Detrick said she believed the recommendation was to approve the city manager's recommendation, which included the revisions to conditions 1, 13, 21, 26 and 35. She said if that was the council member's intent, the motion should be to approve the city manager's recommendation. That also included the clerical corrections she announced earlier.

It was so moved by Council Member West, seconded by Council Member Dunbar, and carried by a voice vote of 7 to 0.

## **9. ZONING: (C9-02-24) MIRAMONTE HOMES – BROADWAY BLVD, RX-1 TO R-1**

Kathleen S. Detrick, city clerk, said she had been advised by development services of a change in the number of protests to this case, which revised the calculations as follows: on the east 16.34%, on the west 7.15%, to the north zero percent and to the south zero percent. That reduces the requirement for approval to a simple majority at the time of ordinance adoption. It did not change the requirement for approval of the request at this meeting.

Mayor Walkup announced that city manager's communication number 134, dated March 3, 2003, would be received into and made a part of the record. He also announced that this was a request to rezone property near the southeast corner of Houghton Road and Broadway Boulevard. The preliminary development plan is for a single-family residence. The zoning examiner and city manager recommend approval of R-1 zoning, subject to certain conditions. He asked if the applicant or a representative was present and if so, were they aware of and amenable to the proposed standard requirements.

Mike Grassinger, The Planning Center, said they were.

Mayor Walkup asked the council's pleasure.

Council Member West said the subject property was a challenge to develop because it contains the Coronado Wash. She commended the developer because the wash is being left in its natural state, which is very important. In addition, there is a 150-foot natural buffer to the south and a green way that will be dedicated along Houghton Road as an extension. There is a contribution to the right-of-way and the density of the development is lower than many of the surrounding properties. In addition, there has been a 20-foot landscape buffer to the east and she thought there was a condition that the developer wanted to read into the record so it could be approved as a part of the ordinance.

Mr. Grassinger said the developer has been working with the neighbors, obviously up to the last minute, regarding the protests and have agreed, in return for the withdrawal of protests, that condition number 2 should be rewritten to read, "All buildings on the north and south edges of the development, those on lots 5, 6, 10, 11 and 12 on the preliminary development plan and all buildings on Broadway and Houghton Frontages shall be restricted to one story."

It was moved by Council Member West, seconded by Council Member Ronstadt, and carried by a voice vote of 7 to 0, that in zoning case C9-01-24, staff be directed to prepare an ordinance rezoning the subject property from RX-1 to R-1, as recommended by the zoning examiner with the change to condition number 2.

**10. ZONING: (C9-02-26) MONTEREY HOMES – GOLF LINKS ROAD, SR TO R-1**

Mayor Walkup announced that city manger's communication number 135, dated March 3, 2003, would be received into and made a part of the record. He also announced that this was a request to rezone property located on the northeast corner of Golf Links Road and Bonanza Avenue. The preliminary development plan is for a single-family residence. The zoning examiner and city manager recommend approval of R-1 subject to certain standard conditions. He asked if the applicant or a representative was present and if so, were they aware of and amenable to the proposed standard requirements.

Mike Grassinger, The Planning Center, said they were.

Mayor Walkup asked the council's pleasure.

Vice Mayor Scott noted the council had heard some deep concerns about detention/retention basins. They are becoming more and more of a problem citywide as they are in almost all wards. The detention/retention basins are in some cases more of a nightmare than a solution to the problem of what to do with water that may accumulate on the site. She asked if the developer in the subject case had proposed a drainage plan.

Ernie Duarte, acting director of development services, said yes, the developer had completed a preliminary drainage report as part of the rezoning process. Staff will analyze that in further detail during the actual development review process, the tentative plat and the grading plat.

Vice Mayor Scott asked if the original draft plan sent the water into a wash, or did it put it onto on-site drainage.

Mr. Duarte said in general it looks at existing drainage patterns and tries to maintain them. Once staff has an opportunity to look at the full-blown drainage report they will be able to better tell where that water is going.

Vice Mayor Scott asked if retention/detention basin structures are ultimately handed over to the private owners of the homes. She asked if such basins are public or private.

Mr. Duarte said current mayor and council policy under the floodplain ordinance is that retention/detention basins are turned over to the homeowners associations.

Vice Mayor Scott said that begins to be the problem because when there is a private on-site retention/detention basin, the unsuspecting new homeowners may not know truly that over time the so called common area will be turned over to them and they will have to bear the expense for its maintenance. The city has shining examples of such basins that are very costly, very technical in nature and the people who bought homes near them did not realize that being next to the basins might affect their property values and that it would be very costly to maintain them. The council had pictures from the speaker who spoke about the Butterfield Ranch subdivision showing that those homeowners have some serious issues. She had some deep-rooted concerns about all rezoning requests that come to the council with retention/detention basins.

She and her staff have been working for about five years with a flooding issue that started at Milmar and Audrey that is still not resolved. That is one example and that is a long time for something to not have good resolution. The city has a certain amount of responsibility in signing off. Once retention/detention basins do not do what they are supposed to, which is to allow water to percolate at a certain rate, then people become concerned about West Nile virus, standing water, and the danger of people stumbling into them and drowning or whatever. Those are the kinds of issues that keep coming back to the council. So as a part of this discussion, she asked that the language that was used in the previous case, condition number 35, which said, “. . . The city staff shall exhibit the utmost flexibility in trying to accomplish this goal,” should be a part of the conditions in this case. She pointed out that developers are required by the city code to adhere to these standards, so it is not exactly their fault that they are going ahead with retention/detention basins, as instructed, but then the private homeowners unsuspectingly are hit with the possible maintenance and billing of the areas, which could be quite technical in nature and very expensive. The council heard that earlier from some of her constituents. She asked that city staff and the developer work closely together and not hand over the detention/retention basins to the homeowners until they are proven to actually work and will not impose a burden on those who are getting the homes. She asked if that was a possibility.

Benny Young, assistant city manager, said the detention/retention requirements are outlined in the floodplain ordinance. As the staff works with the developer and his engineers on this project, they will make certain that the design results in the retention/detention system being an amenity to the project rather than a detriment. He said staff will do everything they can to make that happen. Also, disclosure will be made to the potential buyers through the real estate report that is required by the state real estate



department to make sure that the homeowners' associations realize that they are taking on the maintenance responsibility. He said staff would do everything they could to make sure it is an amenity and not a detriment to the project.

James Keene, city manager, noted that the council asked to have a discussion in study session on this general topic, and he thought some care should be exercised in exactly what the issue was. He did not think it was an issue on a case-by-case basis of the city not applying enough due diligence to the design of the basins. He thought it was a much broader and more fundamental issue, which is, as development proceeds, how will the fact that there is a multiplier impact of everything be managed. In this case, the discussion was about stormwater runoff and impact, but the same kinds of issues are involved in what is the transportation impact and the need for additional roads. What is the impact on the need for all kinds of facilities? This is really a more fundamental question. If staff follows the council's direction about are they really ready for development in a lot of these areas, until this problem is addressed, he would be very concerned if the sense was that the problem could be solved on a case-by-case basis. It is not just a question of saying to get rid of the storm basins and let stuff flow into washes because that could create all kinds of problems as far as flooding is concerned. He said it is not just a simple question and he knew the council realized that. It is not as simple as saying the homeowners should not have to take care of it because if the city as a whole is going to take care of it, the cost of doing so will have to be confronted. How will it be provided for? Staff has no mechanism for doing that.

Other cities when faced with this problem do essentially one of two things. They develop a comprehensive stormwater management approach in utility with a funding source for it and often they deal with the fact that they have completely different standards, which are to develop in a more urban sense with curbs, storm drains and storm drain collection systems. Tucson has a quasi, not rural, development standard and people like that because it is a feeling of incorporating in the desert, but it really limits on a citywide basis how the stormwater runoff can be managed, which is why they have these problems. He wanted to be clear that the issue really raises a big question that has potentially far reaching implications. He said staff would respond as it relates to this case, but when they come back on the 17th of March, those are the kinds of things that are surfacing.

Mayor Walkup said he thought that was exactly the point at the study session discussion. The issue is very profound and everyone at the dais wanted to deal with in it considerable length, which left them with a bit of a dilemma on what to do with this case.

Vice Mayor Scott said what she had asked was that all of those involved, including the city, do this maximum flexibility piece, but before the developer is relieved of the responsibility a date certain and a specified document should be presented to the homeowners that tells them that the retention/detention basin is functioning in a proper way. What is happening in Butterfield Ranch is road wash. A tremendous amount of water from the rains goes down a channel and floods the retention/detention basin, so the city has a public road that is funneling its runoff into the detention/retention basin. Not only is the rain being collected there, runoff from a public road is collected in it and that adds to the whole problem. That may not be peculiar to this particular case, but she was sure there were others that were experiencing the same thing. She thought the council needed to protect brand new homeowners from potential maintenance and liability costs. She was trying to find a way to support this request and give the new owners a mechanism to come

back and tell the city if it is or is not working. The council has seen that it does not work in some places. She asked if there was any wording that could be applied to this case that would let it go forward, but allow the new homeowners or the city to come to terms that would be acceptable to everyone and accountable. She was looking for accountability.

Mr. Young said if the council was unwilling to accept staff's assurance that they will work with the developer to make sure that the issues Vice Mayor Scott was outlining were addressed, which staff maintains they would do, and would like something stronger, the case should be continued so that specific language could be developed.

Mayor Walkup said he agreed and he would be hesitant to vote unless staff had done that.

Vice Mayor Scott asked if Mr. Grassinger had a comment.

Mr. Grassinger said this particular case was no different than any others the council had considered or would consider. He thought it should be remembered that as this case goes through the process it will come back to the council for final ordinance and if, at that time, these issues are not resolved he thought it would be appropriate for some action to be taken. He would hate to see this case held up because the only way it can be fixed is to get into the negotiations with staff. Not approving the rezoning request puts his project on hold; there would be no reason for the developers to continue to work.

Vice Mayor Scott said that was not her intent. She just wanted to stress how profoundly devastated some people are when these things are allowed to occur and the people have no place to go except to their council member, asking how it happened and can they help. She had faith in Mr. Grassinger, as a professional, and in city staff and would like them to be alert to this problem now and in the future. It is not a trivial or insignificant problem and she did want them alerted to the fact that it will not go away. The council will be addressing the issue, there is something in the code that says detention basins must retain the water on-site. She could show people a couple of places where a simple tube running a few hundred feet would have done everything that needed to be done and the residents would not be in the position they are in. That was the problem. She thought there were some solutions, she did not think developers had been allowed the flexibility to address the issue and it is a strong one.

It was moved by Vice Mayor Scott, seconded by Council Member Dunbar, that in zoning case C9-02-26, staff be directed to prepare an ordinance rezoning the subject property from SR to R-1, as recommended.

Mayor Walkup asked if there was further discussion.

Council Member Leal said he thought the things Vice Mayor Scott mentioned were right and important, but he did not think it was enough that the council just make sure that the homeowners know they will have to be responsible for the detention/retention basins through, in this case, a homeowners association. They may not have any idea how much that can cost. He is aware of a situation where the people involved decided that the housing development, the affordable housing low-income people, could not afford to do a homeowners association; they could not afford the dues. So it was allowed that the four houses on the end would be responsible for the full cost of paying for the annual cleanup

and maintenance of the detention basin at a cost of \$6,000 a year, \$1,500 per house. The people who could not afford dues are now confronted with the potential of paying, over the 30-year mortgage, their share of \$45,000 to pay for the maintenance of a detention basin. That is unbelievable. It is not enough to say the homeowners have to be responsible for cleaning the detention basin. They could think that means a Saturday and a pickup truck twice a year with someone buying sandwiches and beer for everyone when in actuality some serious money could be involved. People need to be told about that and not be surprised.

Mr. Young said he strongly believed that there was adequate strength in the flood plain ordinance and also adequate flexibility in the way it is administered to address the issues that Vice Mayor Scott had brought to staff's attention. They are primarily design-related issues and it was his strong belief that if the design was done properly the detention/retention system will be an amenity to the project, not a detriment. That is what he was trying to convey to the council earlier. Staff will work with Mr. Grassinger and the developer to make sure that such basins are designed in a way that they are actually part of the open space plan and/or recreational amenity plan for the project so that they are not just a burden for the homeowners association. Concurrently with that, someone does have to take care of all of that open space and recreational amenities for the project and staff would make sure that there is disclosure to the buyers that they know what they are getting into when they buy into the project.

Vice Mayor Scott thanked Mr. Young and said she knew he would be looking into the other one, as they discussed, because the design is right, it looked nice, everything is run by the specifications and on paper it looks great, but it is not working for the people who live there and that has been the problem. She just wanted to make that point.

Mayor Walkup said he thought the council understood that they were voting for the recommendations, but they had challenged everyone to be mindful of past situations and be sure that the process is just for everyone.

Council Member West said she would support the subject zoning, but she has also had some difficulties with projects in her ward where the detention basin is not working. She thinks sometimes it has to do with the soil or the design and maybe the council needs to look again, as she said at study session, at more tools, more ways of handling these kinds of things. When homeowners take these basins over there should not be a significant expense. In fact, they can actually be used for recreation and other kinds of things if they are properly designed. She thought the council should have a study session to discuss retention/detention basins, fill, grading, all of those issues. She would support the subject request, but she would be talking with Vice Mayor Scott to find out if things were moving along as they should.

The motion that in zoning case C9-02-26, staff be directed to prepare an ordinance rezoning the subject property from SR to R-1 subject to the standard conditions recommended by the city manager was declared carried by a voice vote of 7 to 0.

## **11. ZONING: (C9-02-27) FREMONT DEVELOPERS – FREMONT AVENUE II, R-2 TO C-2**

Mayor Walkup announced that city manager's communication number 136, dated March 3, 2003, would be received into and made a part of the record. He also announced that this was a request to rezone property located on the west side of Fremont Avenue between 18<sup>th</sup> and 19<sup>th</sup> Streets. The preliminary development plan is for a shell building for commercial retail use. The zoning examiner and city manager recommend denial of the C-2 zoning. He asked if the applicant or a representative was present. There was no response.

Mayor Walkup asked the council's pleasure.

Council Member Leal said he thought people who had been watching changes in land use development in the city for the last year and a half or two had noticed a couple of shifts occurring. One is the council is increasingly being asked to down zone industrial property to residential. At the same time, a lot of neighborhood revitalization and in-fill mixed use development is occurring in the core part of the city. He thought that existed as a backdrop in staff's thinking on this request and is what led to their recommendation of denial. He thought the staff was right, they were thinking about these kinds of changes in this area of town in exactly the right way and the council should say no to changing the subject property from R-2 to C-2 and leave it as it is. It will be a better use to the community for residential purposes in the future.

It was moved by Council Member Leal, seconded by Council Member West, and carried by a voice vote of 7 to 0, to deny the request for rezoning as recommended by the zoning examiner and approve the city manager's recommendation that a project review and update of land use policies in the *Greater South Park Area Plan* be undertaken as part of the planning task force work when feasible.

## **12. PUBLIC HEARING: VALENCIA/CRAYCROFT ANNEXATION DISTRICT**

Mayor Walkup announced that city manager's communication number 131, dated March 3, 2003, would be received into and made a part of the record. He also announced that this was the time and place legally advertised for a public hearing with respect to the proposed Valencia/Craycroft Annexation District. He advised that the public hearing was scheduled to last for no more than one hour and speakers would be limited to five-minute presentations. He asked if anyone wished to address the council on this issue. There was no one.

It was moved by Council Member Ronstadt, seconded by Council Member Leal, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member Leal, seconded by Vice Mayor Scott, and carried by a voice vote of 7 to 0, to direct staff to proceed with the Valencia/Craycroft Annexation District.

### **13. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES**

Mayor Walkup announced that city manager's communication number 127, dated March 3, 2003, would be received into and made a part of the record. He asked the council's pleasure.

It was moved by Council Member Ronstadt, seconded by Council Member Dunbar, and carried by a voice vote of 7 to 0, to reappoint Burton Wright, Jon Walker, and Arthur Whittemore to the Fire Code Review Committee; to appoint M. Patricia DeVito and Judith A. Green to the Metropolitan Housing Commission; and reappoint Noel Matkin to the Tucson Commission on Gay, Lesbian, Bisexual and Transgender Issues.

Mayor Walkup asked if there were any personal appointments by any member of the council.

Council Member West announced her personal appointment of Alaina Speraw to the Community Development Advisory Committee.

### **14. CALL TO THE AUDIENCE, for persons desiring to speak**

Mayor Walkup announced that this was the time any member of the public was allowed to address the mayor and council on any issue. Speakers would be limited to five-minute presentations. He asked if anyone wished to address the council.

#### **A. Arizona State Budget Cuts**

Joyce Steiner, representing the Pima County Interfaith Council, said the extremist leadership of the legislature is proposing drastic cuts to the state budget that will fall hardest on working families and children. Those leaders want to eliminate adult education, health care for children of the working poor, and education programs at all levels. People from the Midwest know about seed corn, the part of the corn harvest that farmers hold back and use to plant the following year's crop. The proposed cuts would be akin to eating the seed corn, thus, depriving future generations. The PCIC was present to find out if the city council was going to follow the legislature's lead, or would it defend children and working families in Tucson. Would they continue to fund job training, which works, before and after school child care, effective programs for youth, and ordinances that encourage living wages? Those investments pay off. Thanks to the city's investment, people in Tucson are getting out of poverty. A recent study by the University of Arizona found that the average salary of a Job Path graduate is five dollars an hour more after training. PCIC is very concerned about the city's funding priorities for the coming year and will be paying close attention to the council's deliberations.

This coming year they will be expanding their faithful citizenship, voter literacy efforts to register and educate voters throughout Tucson. They will help people decide, just as they did last year, which candidates are willing to stand with families and which are not. A budget is a statement of a community's values. People can all agree that security is important and must be funded, but they should not forget that the economic security of a family is directly connected to the physical safety and security of the community. She encouraged the mayor and council to protect the seed corn that creates security for children and families in Tucson.

**B. Budget Constraints**

Julie Anderson, member of St. Pius X Catholic Church and PCIC, realized this as a tough budget year. However, they believe that the council believes that families are more important than other things discussed on the agenda, such as, education, health care delivery, and everything they can do they will do.

**15. ADJOURNMENT: 3:21 p.m.**

Mayor Walkup announced that the council would stand adjourned until its next regularly scheduled meeting to be held on Monday, March 17, 2003, at 7:30 p.m., in the Mayor and Council Chambers, in City Hall, 255 W. Alameda, Tucson, Arizona.

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MAYOR

ATTEST:

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CITY CLERK

**CERTIFICATE OF AUTHENTICITY**

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the city of Tucson, Arizona, held on the 3<sup>rd</sup> day of March, 2003, and do hereby certify that it is an accurate transcription of the magnetic tape record of said meeting.

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MANAGEMENT ASSISTANT

KSD:DA:DP:mjv  
pr agnst tp:dp:ss